

By: Villarreal

H.B. No. 659

A BILL TO BE ENTITLED

AN ACT

relating to voluntary assessment of property owners by a municipality to finance water or energy efficiency improvements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 376, Local Government Code, is amended by adding Section 376.0001 to read as follows:

Sec. 376.0001. FINDINGS. The legislature finds that the contractual assessment of property to finance water or energy efficiency public improvements or the installation of distributed generation renewable energy sources or water or energy efficiency improvements described by this chapter as authorized by this chapter serves the public purposes of economic development and water and energy conservation.

SECTION 2. Section 376.001, Local Government Code, is amended to read as follows:

Sec. 376.001. AUTHORIZED FINANCING. An assessment under this chapter may finance:

(1) water or energy efficiency public improvements to developed lots for which the costs and time delays of creating an entity under law to assess the lot would be prohibitively large relative to the cost of the water or energy efficiency public improvement to be financed; and

(2) the installation of distributed generation renewable energy sources or water or energy efficiency improvements

1 that are permanently fixed to residential, commercial, industrial,
2 or other real property.

3 SECTION 3. Sections 376.004(a) and (b), Local Government
4 Code, are amended to read as follows:

5 (a) The governing body of a municipality may determine that
6 it is convenient and advantageous to designate an area of the
7 municipality within which authorized municipal officials and
8 property owners may enter into contracts to assess properties for
9 water or energy efficiency public improvements described by Section
10 376.001(1) and make financing arrangements under this chapter.

11 (b) The governing body of a municipality may determine that
12 it is convenient, advantageous, and in the public interest to
13 designate an area of the municipality within which authorized
14 municipal officials and property owners may enter into contracts to
15 assess properties to finance the installation of distributed
16 generation renewable energy sources or water or energy efficiency
17 improvements that are permanently fixed to real property.

18 SECTION 4. Sections 376.005(b), (c), and (d), Local
19 Government Code, are amended to read as follows:

20 (b) The resolution of intention must:

21 (1) include a statement that the municipality proposes
22 to make contractual assessment financing available to property
23 owners;

24 (2) identify the types of water or energy efficiency
25 public improvements, distributed generation renewable energy
26 resources, or water or energy efficiency improvements that may be
27 financed;

1 (3) describe the boundaries of the area in which
2 contracts for assessments may be entered into;

3 (4) thoroughly describe the proposed arrangements for
4 financing the program; and

5 (5) state the time and place for a public hearing and
6 that interested persons may object to or inquire about the proposed
7 program at the hearing.

8 (c) If contractual assessments are to be used to finance the
9 installation of distributed generation renewable energy sources or
10 water or energy efficiency improvements that are permanently fixed
11 to real property, the resolution of intention must state that it is
12 in the public interest to do so.

13 (d) The resolution shall direct an appropriate municipal
14 official to:

15 (1) prepare a report under Section 376.006; and

16 (2) consult with the appropriate assessor and
17 collector as provided by Section 376.009 [~~appraisal district or~~
18 ~~districts~~] regarding collecting the proposed contractual
19 assessments with property taxes imposed on the assessed property.

20 SECTION 5. Sections 376.006 and 376.007, Local Government
21 Code, are amended to read as follows:

22 Sec. 376.006. REPORT REGARDING ASSESSMENT. An appropriate
23 municipal official designated in the resolution shall prepare a
24 report containing:

25 (1) a map showing the boundaries of the area within
26 which contractual assessments are proposed to be offered;

27 (2) a draft contract specifying the terms that would

1 be agreed to by the municipality and a property owner within the
2 contractual assessment area;

3 (3) a statement of municipal policies concerning
4 contractual assessments including:

5 (A) identification of types of water or energy
6 efficiency public improvements, distributed generation renewable
7 energy sources, or water or energy efficiency improvements that may
8 be financed through the use of contractual assessments;

9 (B) identification of a municipal official
10 authorized to enter into contractual assessments on behalf of the
11 municipality;

12 (C) a maximum aggregate dollar amount of
13 contractual assessments;

14 (D) a method for ranking requests from property
15 owners for financing through contractual assessments in priority
16 order if requests appear likely to exceed the authorization amount;
17 and

18 (E) a method for ensuring that property owners
19 requesting financing demonstrate the financial ability to fulfill
20 financial obligations under the contractual assessments;

21 (4) a plan for raising a capital amount required to pay
22 for work performed in accordance with contractual assessments that:

23 (A) may include:

24 (i) amounts to be advanced by the
25 municipality through funds available to it from any source; and

26 (ii) the sale of bonds or other financing;

27 (B) shall include a statement of or method for

1 determining the interest rate and period during which contracting
2 property owners would pay any assessment; and

3 (C) shall provide for:

4 (i) any reserve fund or funds; and

5 (ii) the apportionment of all or any
6 portion of the costs incidental to financing, administration, and
7 collection of the contractual assessment program among the
8 consenting property owners and the municipality; and

9 (5) the results of the consultations with the
10 appropriate assessor and collector as provided by Section 376.009
11 regarding collecting [~~appraisal districts concerning~~
12 ~~incorporating~~] the proposed contractual assessments with [~~into the~~
13 ~~assessments of~~] property taxes imposed on the assessed property.

14 Sec. 376.007. DIRECT PURCHASE BY OWNER. On the written
15 consent of an authorized municipal official, the proposed
16 arrangements for financing the program pertaining to the
17 installation of distributed generation renewable energy sources or
18 water or energy efficiency improvements that are permanently fixed
19 to real property may authorize the property owner to:

20 (1) purchase directly the related equipment and
21 materials for the installation of the distributed generation
22 renewable energy sources or water or energy efficiency
23 improvements; and

24 (2) contract directly for the installation of the
25 distributed generation renewable energy sources or water or energy
26 efficiency improvements.

27 SECTION 6. Chapter 376, Local Government Code, is amended

1 by adding Section 376.0071 to read as follows:

2 Sec. 376.0071. RECORDING OF NOTICE OF CONTRACTUAL
3 ASSESSMENT REQUIRED. (a) A municipality that authorizes financing
4 through contractual assessments under this chapter shall file
5 written notice of each contractual assessment in the real property
6 records of the county in which the property is located.

7 (b) The written notice must be in recordable form and must
8 contain:

9 (1) the amount of the assessment;

10 (2) the legal description of the property;

11 (3) the name of each property owner; and

12 (4) a reference to the statutory assessment lien
13 provided under this chapter.

14 SECTION 7. Section 376.008, Local Government Code, is
15 amended to read as follows:

16 Sec. 376.008. LIEN. (a) A contractual ~~[An]~~ assessment
17 ~~[imposed]~~ under this chapter and any interest or penalties on the
18 assessment:

19 (1) is ~~[constitutes]~~ a first and prior lien against
20 the lot on which the assessment is imposed until the assessment,
21 interest, or penalty is paid; and

22 (2) has the same priority as a lien for municipal
23 property taxes.

24 (b) The lien runs with the land, and that portion of an
25 assessment under the assessment contract that has not yet come due
26 is not eliminated by foreclosure of a property tax lien.

27 (c) To the extent practicable, the assessment lien may be

1 enforced by the municipality in the same manner that a property tax
2 lien against real property may be enforced by the municipality.

3 (d) Delinquent installments of the assessment shall incur
4 interest and penalties in the same manner as delinquent property
5 taxes.

6 (e) A municipality may recover costs and expenses,
7 including attorney's fees, in a suit to collect a delinquent
8 installment of an assessment in the same manner as in a suit to
9 collect a delinquent property tax.

10 SECTION 8. Chapter 376, Local Government Code, is amended
11 by adding Section 376.009 to read as follows:

12 Sec. 376.009. COLLECTION OF ASSESSMENTS. (a) If the
13 municipality authorizing financing through contractual assessments
14 under this chapter imposes property taxes, the assessor and
15 collector for the municipality shall collect the assessments under
16 this chapter. If the property on which an assessment is imposed is
17 subject to property taxation, the assessor and collector shall
18 include the assessment in the tax bill prepared and mailed as
19 provided by Section 31.01, Tax Code. The tax bill must separately
20 state the amount of an assessment imposed under this chapter.

21 (b) If the municipality does not impose property taxes, the
22 municipality may collect the assessments under this chapter or may
23 contract with a third party, including the county
24 assessor-collector, to collect the assessments. The county
25 assessor-collector has the authority to collect assessments under
26 this chapter as provided by this subsection.

27 (c) If the municipality collects its own property taxes and

1 the governing body of the municipality authorizes split payment of
2 taxes under Section 31.03, Tax Code, the assessor and collector for
3 the municipality shall consider an assessment imposed under this
4 chapter and included in the tax bill a municipal tax in applying
5 each payment for a person who makes split payments.

6 (d) An assessor and collector that accepts a partial payment
7 on a tax bill that includes more than one taxing unit and includes
8 an assessment under this chapter shall consider the assessment a
9 municipal tax in allocating partial payments among taxing units as
10 provided by Section 31.07, Tax Code. An assessor and collector that
11 accepts a partial payment on a tax bill that includes only a
12 municipal tax and an assessment under this chapter shall allocate
13 the partial payment in proportion to the amount of the municipal
14 taxes and the assessment included in the bill.

15 SECTION 9. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2011.